

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**CIVIL ACTION NO. 2005-11348 and  
NO. 2005-11603 (Consolidated)**

**JOSEPH SCHMITT,  
Plaintiff,**

**v.**

**ROBERT MURPHY, ET AL.,  
Defendants.**

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**DEFENDANTS' MOTION FOR EXTENSION OF TIME  
TO FILE RESPONSE TO PLAINTIFF'S MOTION  
FOR SUMMARY JUDGMENT**

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NOW COME the Defendants, Robert D. Clauss, David Leonard, Mark Dare, Steven Fairly, Robert Murphy, Robert J. Waitkevich, Kathleen M. Dennehy, and Timothy Hall (collectively, the "Defendants"), by and through undersigned counsel, and hereby move this honorable Court to extend the time for serving a responsive pleading to Plaintiff's Motion for Summary Judgment, up to and including February 28, 2008.

As reasons therefore, counsel states he is scheduled to represent the Commonwealth of Massachusetts in two G.L.c. 123A, section 9 Superior Court jury trial: *McIntyre v. Commonwealth*, Worcester, Unified Session No. SUCR2006-10109, currently scheduled to begin trial in Plymouth Superior Court on January 22, 2008; and *Guillotte v. Commonwealth*, Hampden, Unified Session No. SUCR2006-10221, currently scheduled to begin trial in Plymouth Superior Court on February 25, 2008. Counsel may also be assigned to a jury trial on February 5, 2008. These trials are extremely fact intensive and require significant preparation.

In addition, counsel is scheduled to appear before the Appeals Court on January 8, 2008, to argue *Miller v. Commonwealth*, 2006-P-1815. Counsel also has an appellate argument scheduled for January 17, 2007 in the case of *Quintal v. Commonwealth*, 2007-P-0398, via telephone.

Finally, the issues raised by the *pro se* Plaintiff in his two separate complaints and his motion for summary judgment require extensive research and analysis. Further time is required to properly draft a response to the Plaintiff's motion for summary judgment that will address all of the issues, and thus save future time and resources.

This delay in filing the motion will in no way prejudice the plaintiff's lawsuit.

Respectfully Submitted  
by Defendants Murray, Brady and Henry,

NANCY ANKERS WHITE  
Special Assistant Attorney General

by: s/ BRENDAN J. FRIGAULT  
Brendan J. Frigault, Counsel  
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Massachusetts Treatment Center  
30 Administration Road  
Bridgewater, Massachusetts 02324  
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Dated: December 27, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true copy of the attached document to be served upon the Petitioner through intra-facility mail.

Joseph Schmitt, M81137  
Massachusetts Treatment Center  
30 Administration Rd.  
Bridgewater, MA 02324

s/ BRENDAN J. FRIGAULT

Brendan J. Frigault

Dated: December 27, 2007